IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX APPLICATION No.219 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE D.A.MEHTA Sd/-
and
HON'BLE MS.JUSTICE H.N.DEVANI Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

COMMISSIONER OF INCOME TAX

Versus

STELLABEN D/O.JIVANLAL KINARIWALA

Appearance:

1. INCOME TAX APPLICATION No. 219 of 1999
MR MANISH R BHATT for Applicant No. 1
MRS SWATI SOPARKAR for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE D.A.MEHTA
and
HON'BLE MS.JUSTICE H.N.DEVANI

Date of decision: 09/12/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE D.A.MEHTA)

1. Heard Mr.M.R.Bhatt, learned Senior Standing

Counsel for the applicant - revenue and Mr.S.N.Soparkar, learned Senior Advocate for the respondent - assessee. In light of the order dated 22-03-2004 made in Review Petition Nos.1682-1737 of 2003 and Civil Appeal Nos.6148-6157 of 1998 and cognate matters by the Apex Court, the following questions of law arise out of the order of the Income Tax Appellate Tribunal.

"1. "Whether, the Appellate Tribunal is right in law and on facts in confirming the order passed by the Commissioner of Income-tax (Appeal) directing to exclude the income of 4 BOIs from the income of the assessee ?"

2. "Whether, the Appellate Tribunal ought not to have appreciated that the ratio of the decision in the case of Mc.Dowell & Company was Applicable in the instant case ?

2. Accordingly, the Tribunal is directed to draw up the statement of case and raise and refer the questions of law for the opinion of this Court. Rule made absolute.

Sd/- Sd/-

[D.A.MEHTA,J] [H.N.DEVANI,J]

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'Bhavesh'